

U.S. Application No. 10/525,366 -- 3

### REMARKS

Practitioner submits that he has meet the requirements for a petition for withdrawal of a holding of abandonment based on evidence that a reply was timely mailed or filed (see MPEP Section 711.03(c), Section I.B. (Petitions Relating to Abandonment -- I. PETITION TO WITHDRAW HOLDING OF ABANDONMENT -- B. *Petition to Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed*)).

In the present application (Application No. 10/525,366), a non-final Office Action was mailed on January 2, 2008. A reply to the Office Action was required no later than six (6) months from the mailing date of the Office Action, i.e., no later than July 2, 2008. Practitioner mailed a response to the Office Action ("Amendment And Request For Reconsideration") on July 2, 2008 together with the required Petition For Extension Of Time and PTO-2038 including payment of the fee under 37 CFR 1.17(a)(3) for a three month extension of time for responding to the outstanding Office Action. The Certificate of Mailing on the Amendment And Request For Reconsideration and Petition For Extension Of Time evidence a mailing date of July 2, 2008. Practitioner later received a return postcard receipt evidencing receipt of the Amendment And Request For Reconsideration, Petition For Extension Of Time, and PTO-2038 by the USPTO on July 7, 2008.

Based upon the foregoing, practitioner submits that the reply to the non-final Office Action was timely filed on July 2, 2008. Practitioner submits that the reply should be accorded the date on the Certificate of Mailing, which is July 2, 2008.


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Whereby applicant respectfully requests that the reply to the non-final Office Action be accorded a filing date of July 2, 2008, and that the holding of abandonment of this application be withdrawn.

Respectfully submitted,

Luiz Roberto Martins Miranda et al.

Fildes & Outland, P.C.



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Attachments

Exhibit A

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JUN 24 2009

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Luiz Roberto Martins Miranda et al.

Group Art Unit: 1626

Application No. 10/525,366

Examiner: K. Saeed

Filed: February 23, 2005

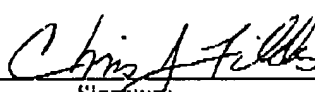
For: NIOBIUM-BASED COMPOSITIONS AND COATINGS,  
NIOBIUM OXIDES AND THEIR ALLOYS APPLIED BY THERMAL  
SPRAYING AND THEIR USE AS AN ANTICORROSIVE

Attorney Docket No. 10008.006

I hereby certify that this correspondence is being deposited with the United States Postal Service as First  
Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-  
1450 on:

July 2, 2008  
Date of Deposit

Christopher J. Fildes  
Registered Attorney

  
Signature

## AMENDMENT AND REQUEST FOR RECONSIDERATION

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated January 2, 2008, please amend the  
above-identified application as follows:

In the Claims:

Cancel claims 1 - 7.

Add new claims 8 - 11 as follows:

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1 - 7. (canceled)

8. (new) A method of applying a Niobium Oxide coating as an anti-corrosive, the method comprising the steps of:

pre-cleaning a metallic surface that will receive the Niobium Oxide coating;  
blasting, with abrasive, to attain a roughness necessary for coating anchoring;  
pre-heating the metallic surface; and  
applying the coating by thermal aspersión.

9. (new) The method according to claim 8, wherein the Niobium Oxide coating has the following characteristics:

melting point: 1512 °C;  
specific gravity: 4.6 g/cm<sup>3</sup>;  
niobium oxide %: 99.4;  
sulphur (ppm): less than 10;  
iron (ppm): up to 229;  
lead (ppm): less than 1; and  
granulometry: 100 - 400 # Tyler mesh size.

10. (new) The method according to claim 8, including the step of:

applying a 40 Al - 60 Nb agglomerate as a pre-layer promoter of adherence between the metallic substrate and the Niobium Oxide layer.

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11. (new) The method according to claim 8, wherein parameters for the coating application, by thermal aspersion, are:

oxygen pressure: from 2.0 up to 4.0 kg/cm<sup>3</sup>;

acetylene pressure: from 0.5 up to 1.0 kg/cm<sup>3</sup>; and

coating deposition rate: from 5 up to 15.

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In the Specification:

Replace the paragraph beginning on page 2, line 11 with the following amended paragraph:

The components referred to above obey the following characteristics:

~~Boiling~~ Melting point: a maximum of 2000°C

Density: 4.47-8.0 g/cm<sup>3</sup>

% niobium oxide: 99.4

Sulphur ppm: 10

Fe ppm: 229

Pb ppm: < 1

Granulometry: [-180 to 45  $\mu$ m] (100 - 400 # Tyler mesh size)

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#### REMARKS

Claims 1 - 7 have been cancelled. Claims 8 - 11 have been added. Reconsideration of this application in view of the amendments noted is respectfully requested.

Canceled claims 1 - 7 have been rewritten as claims 8 - 11 to more clearly define the claimed invention. Support for the method steps of claim 8 can be found in the specification from page 3, line 4 through page 4, line 21 of the specification. Claim 9 is similar to canceled claim 1 and is supported by page 2, lines 6 - 19. Claim 10 is similar to canceled claim 2 and is supported by page 4, lines 18 - 20 of the specification. Claim 11 is similar to canceled claim 3 and is supported by page 4, lines 22 - 28 of the specification.

The specification has been amended to correct a translation error. "Boiling point" now reads --Melting point--. The specification has also been amended to include the recitation that the granulometry is 100 - 400 # Tyler mesh size, which corresponds to the range of particle sizes originally disclosed in the specification.

In the Office Action, claims 1 - 7 were rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, certain limitations in the claims were found to be vague and indefinite, to include improper formatting, and to recite a use without any positive steps.

New claims 8 - 11 have been written with a view towards eliminating any vague and/or indefinite terminology, using proper formatting, and positively claiming the method steps. Hence, applicant submits that new claims 8 - 11 are definite and meet the requirements of Section 112, second paragraph. Therefore, applicant respectfully requests that the Section 112, second paragraph rejection be withdrawn.

Claims 4, 6, and 7 were rejected under 35 U.S.C. Section 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process.

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As noted above, claims 4, 6, and 7 have been canceled. Also, new claims 8 - 11 have been written to positively claim the steps of the method and to avoid the recitation of a use without setting forth steps in the process. Therefore, applicant submits that new claims 8 - 11 meet the requirements of Section 101. Accordingly, applicant respectfully requests that the Section 101 rejection be withdrawn.

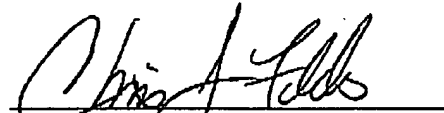
A Petition For A Three-Month Extension Of Time and a PTO-2038 authorizing payment in the amount of \$1,050.00 to cover the fee under 37 CFR 1.17(a)(3) are included with this response.

This amendment and request for reconsideration is felt to be fully responsive to the comments and suggestions of the examiner and to place this application in condition for allowance. Favorable action is requested.

Respectfully submitted,

Luiz Roberto Martins Miranda et al.

Fildes &amp; Outland, P.C.



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Exhibit B

JUN 24 2009

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Luiz Roberto Martins Miranda et al.

Group Art Unit: 1626

Application No. 10/525,366

Examiner: K. Saced

Filed: February 23, 2005

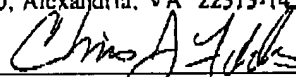
For: NIOBIUM-BASED COMPOSITIONS AND COATINGS,  
NIOBIUM OXIDES AND THEIR ALLOYS APPLIED BY THERMAL  
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Attorney Docket No. 10008.006

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July 2, 2008  
Date of Deposit

Christopher J. Fildes  
Registered Attorney

  
Signature

PETITION FOR EXTENSION OF TIME

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

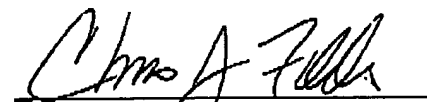
Sir:

Applicant hereby petitions for a three-month extension of time for responding to the outstanding Office Action in the above-identified patent application. A PTO-2038 authorizing payment in the amount of \$1,050.00 is enclosed to cover the fee for this Petition under the provisions of 37 C.F.R. 1.17(a)(3).

Respectfully submitted,

Luiz Roberto Martins Miranda et al.

Fildes & Outland, P.C.

  
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*Exhibit D*

e "Received" Stamp of the Patent  
& Trademark Office imprinted hereon  
acknowledges the filing of:

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PTO-2038 \$1050

DESCRIPTION  
OF PAPER: Amendment And Request  
For Reconsideration

NAME OF  
APPLICANT: Luiz Roberto Martins Miranda et al

INTF. OR  
SERIAL NO: 10/525,366

DATE: 7/2/08 ATTY: cjf 10008.006

